

### **REMARKS/ARGUMENTS**

In the Office Action dated May 3, 2005, the Examiner rejected claims 6-8 under 35 U.S.C. § 112, second paragraph as being indefinite and under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,109,824, issued to Ann'es in view of U.S. Patent 4,255,909, issued to Soderstrom. The Applicant amends the claims and responds as follows.

#### **Summary of Interview of 20 July 2005**

In the interview conducted on 20 July 2005, the Applicant proposed the amendments to the claims that are reflected herein. The Examiner indicated that the amendments would likely overcome the current rejections. The Examiner also indicated that his file does not reflect a power of attorney or associate power of attorney for the undersigned. The associate power of attorney was originally submitted with the application and is attached hereto for the Examiner's convenience.

#### **Rejections under 35 U.S.C. § 112**

Claim 6 has been amended to remove "freely" from the claim. Applicant requests withdrawal of the rejection based on 35 U.S.C. § 112.

#### **Rejections under 35 U.S.C. § 103(a)**

As discussed with the Examiner, and as taught in the present application, applicant's invention as claimed is such that the tubular section 5 is engaged within the frame 1, and in particular the lower portion 3 of frame 1 (as seen in Figure 3) such that force exerted upon the frame 1 is not transferred to the tubular section 5. The force exerted on frame 1 may come from the expansion of the ground occasioned by frost or as a result of settling of the surrounding ground after a frost. It is

well known in the art that particularly in cold climates, the ground is subject to significant frost/heave forces. Those forces will be exerted upon the frame 1. By virtue of the structure of applicant's invention, the forces are not transferred to tubular section 5. It can be clearly seen in Figure 3 that the inclined wall 3 does not abut the outside wall of tubular section 5, the gap being taken up by collar 15. Thus, both a vertical and angular movement of frame 1 relative to tubular section 5 is permissible.

In contrast, the *Annès* reference teaches that the tubular section 9 is either integrally formed with frame section 3 or is joined to frame section 3 by annular joint 7 (*Annès* column 5, lines 9-21). As such, any force exerted on frame 3 is by definition transferred to conduit 9. Head 5 which surrounds conduit 9 will also bear some of the force. It will be understood by those skilled in that art that when the *Annès* reference is in place in the ground, the compacted earth surrounding conduit 9 and head 5 will prevent any movement of those elements and thus there can be no movement of any of the elements of the *Annès* reference under force exerted on frame 3. In this way, the *Annès* reference will fail to allow for any angular movement in particular by virtue of the frost heave forces exerted on frame 3.

Thus, applicant has shown a patentably distinct structure from the *Annès* reference in order to achieve the desired result. A person skilled in the art combining the teachings of *Annès* with the teachings of *Söderström* or any other prior art references would not be led to the present invention, as claimed.

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Amdt. Dated Aug. 26, 2005  
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Conclusion

Allowance of claims 6-8 is respectfully requested. If the Examiner believes that a telephonic interview would be beneficial, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,



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